

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

WILLIAM H. EVANS, JR.,

Plaintiff,

vs.

**Case No.: 2:15-cv-769
JUDGE SMITH
Magistrate Judge Kemp**

**SCIOTO COUNTY COMMON PLEAS
COURT AND JUDGE'S OF GENERAL,
DOMESTIC & PROBATE DIVISIONS, *et al.*,**

Defendants.

ORDER

On April 7, 2015, the United States Magistrate Judge issued a *Report and Recommendation* recommending that Plaintiff's motion to proceed *in forma pauperis* (Doc. 1) be denied and that Plaintiff be required to pay the entire \$400.00 filing fee. (See *Report and Recommendation*, Doc. 7). The parties were advised of their right to object to the *Report and Recommendation*. This matter is now before the Court on Plaintiff's Objection and Supplemental Objection to the Magistrate Judge's *Report and Recommendation*. (See Docs. 8 and 9). The Court will consider the matter *de novo*. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff's Objection challenges the Magistrate Judge's conclusion that he has "three strikes" and thus has been denied the opportunity to proceed *in forma pauperis*. Plaintiff argues that he has satisfied the imminent danger of 28 U.S.C. § 1915(g).

The Court has carefully reviewed the Report and Recommendation and Plaintiff's objections. The Court agrees with the findings of the Magistrate Judge that Plaintiff has had

three cases dismissed in the past as frivolous or for failure to state a claim. Pursuant to 28 U.S.C. § 1915(g), a plaintiff may not bring a suit *in forma pauperis* if that prisoner “has, on 3 or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the ground that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” Further, the Court agrees with the Magistrate Judge’s findings that Plaintiff has not sufficiently pled in his complaint that he is under imminent danger of serious physical injury. Therefore, for the reasons stated in the *Report and Recommendation*, this Court finds that Plaintiff’s objections are without merit and are hereby **OVERRULED**.

The Clerk shall remove Documents 1, 7, 8 and 9 from the Court’s pending motions list.

IT IS SO ORDERED.

/s/ George C. Smith

GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT